

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

SENATE BILL 402

44TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 1999

INTRODUCED BY

John Arthur Smith

FOR THE LEGISLATIVE FINANCE COMMITTEE

AN ACT

RELATING TO AGENCY GOVERNING BODIES; CHANGING THE MEMBERSHIP OF THE BOARD OF EXAMINERS FOR ARCHITECTS, STATE BOARD OF REGISTRATION FOR PROFESSIONAL ENGINEERS AND SURVEYORS, NEW MEXICO REAL ESTATE COMMISSION, REAL ESTATE APPRAISERS BOARD, BOARD OF THANATOPRACTICE AND COAL SURFACE MINING COMMISSION.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

Section 1. Section 61-15-3 NMSA 1978 (being Laws 1979, Chapter 362, Section 3, as amended) is amended to read:

"61-15-3. BOARD OF EXAMINERS FOR ARCHITECTS CREATED-- TERMS-- QUALIFICATIONS. --

A. There is created a "board of examiners for architects" consisting of seven members appointed by the governor for staggered terms of three years each. [Si x] As of July 1, 1999, four of the members shall be architects having

underscored material = new
[bracketed material] = delete

underscored material = new
[bracketed material] = delete

1 ten years or more experience in the profession, five years of
2 which shall have been in responsible charge of architectural
3 projects, and shall have been registered as architects in New
4 Mexico for at least five years. [~~One of these six architects~~]
5 Three members shall be public members, one of whom shall be in
6 architectural education in an accredited college of
7 architecture. [~~The seventh member shall be a public member~~
8 ~~who is a voting member.~~] The two public [member] members of
9 the board who are not in architectural education shall not
10 have been licensed as [~~an architect nor shall the public~~
11 ~~member~~] architects or have any significant financial interest,
12 whether direct or indirect, in the occupation regulated.

13 B. Each member of the board shall be at least
14 thirty years of age, a citizen of the United States and a
15 resident of New Mexico for at least five years prior to the
16 date of appointment.

17 C. Members of the board shall be appointed for
18 staggered terms of three years each made in such a manner that
19 the terms of not more than two members expire on June 30 of
20 each year. Each member shall serve until his successor has
21 been appointed and qualified. A vacancy shall be filled for
22 the unexpired term by appointment by the governor of a person
23 having similar qualifications as the member that he replaces.
24 [~~Each member of the board whose term has not expired on the~~
25 ~~effective date of this section shall serve out his unexpired~~

underscored material = new
[bracketed material] = delete

1 ~~term.]~~

2 D. Each member of the board shall receive a
3 certificate of appointment from the governor and, before
4 beginning his term of office, shall file with the secretary of
5 state the constitutional oath of office. The governor may
6 remove any member from the board for the neglect of any duty
7 required by law, for incompetence or, if the member is a
8 licensed architect, for any improper or unprofessional conduct
9 as defined by ~~[regulations]~~ rules of the board.

10 E. The board shall elect a chairman, a vice chairman
11 and a secretary and any other officers it deems necessary. "

12 Section 2. Section 61-23-5 NMSA 1978 (being Laws 1987,
13 Chapter 336, Section 5, as amended) is amended to read:

14 "61-23-5. STATE BOARD OF REGISTRATION FOR PROFESSIONAL
15 ENGINEERS AND SURVEYORS-- MEMBERS-- TERMS. --

16 A. There is created the "state board of registration
17 for professional engineers and surveyors" ~~[that shall consist]~~
18 consisting of five registered professional engineers, at least
19 one of whom shall be in engineering education, three
20 registered professional surveyors and ~~[two]~~ three public
21 members.

22 B. The members of the board shall be appointed by
23 the governor for staggered terms of five years. The
24 appointees shall have the qualifications required by Section
25 61-23-6 NMSA 1978. The appointments shall be made in such a

underscored material = new
[bracketed material] = delete

1 manner that the terms of not more than two members expire in
2 each year. Each member of the board shall receive a
3 certificate of appointment from the governor. Before the
4 beginning of the term of office, the appointee shall file with
5 the secretary of state a written oath or affirmation for the
6 faithful discharge of official duty. A member of the board
7 may be reappointed but may not serve more than two consecutive
8 full terms. A member shall not be reappointed to the board
9 for at least two years after serving two consecutive full
10 terms. The board may designate any former board member to
11 assist it in an advisory capacity.

12 C. Each member may hold office until the expiration
13 of the term for which appointed or until a successor has been
14 duly qualified and appointed. In the event of a vacancy for
15 any cause that results in an unexpired term, if not filled
16 within three months by official action, the board may appoint
17 a provisional member to serve until the governor acts.
18 Vacancies on the board shall be filled by appointment by the
19 governor for the balance of the unexpired term "

20 Section 3. Section 61-29-4 NMSA 1978 (being Laws 1959,
21 Chapter 226, Section 3, as amended) is amended to read:

22 "61-29-4. CREATION OF COMMISSION-- POWERS AND DUTIES. --
23 There is created the New Mexico real estate commission, called
24 "the commission" in Chapter 61, Article 29 NMSA 1978. The
25 commission shall be appointed by the governor and shall

. 124859. 4

underscored material = new
[bracketed material] = delete

1 consist of five ~~members~~ who shall have been residents of the
2 state for three consecutive years immediately prior to their
3 appointment, [~~four~~] three of whom shall have been real estate
4 brokers licensed in New Mexico and [~~one~~] two of whom shall be
5 [~~a member~~] members of the public who [~~has~~] have never been
6 licensed as [~~a~~] real estate [~~broker~~] brokers or [~~salesperson~~]
7 salespersons; provided not more than one ~~member~~ shall be from
8 any one county within the state. The ~~members~~ of the
9 commission shall serve for a period of five years or until
10 their successors are appointed and qualified. ~~Members~~ to fill
11 vacancies shall be appointed for any unexpired term. The
12 governor may remove any ~~member~~ for cause. The commission
13 shall possess all the powers and perform all the duties
14 prescribed by Chapter 61, Article 29 NMSA 1978 and as
15 otherwise provided by law, and it is expressly vested with
16 power and authority to make and enforce any rules [~~and~~
17 ~~regulations~~] to carry out the provisions of that article.
18 Prior to any final action on any proposed changes or
19 amendments to the rules [~~and regulations~~] of the commission,
20 the commission may publish notice of the proposed action in
21 its official publication, distribute the publication to each
22 active licensee and give the time and place for a public
23 hearing on the proposed changes. The hearing shall be held at
24 least thirty days prior to any proposed final action. Any
25 changes or amendments to the rules [~~and regulations~~] shall be

. 124859. 4

underscored material = new
[bracketed material] = delete

1 filed in accordance with the procedures of the State Rules Act
2 and shall become effective thirty days after notification to
3 all active licensees of the filing of the changes or
4 amendments. The commission may employ any staff it deems
5 necessary to assist in carrying out its duties and in keeping
6 its records."

7 Section 4. Section 61-30-5 NMSA 1978 (being Laws 1990,
8 Chapter 75, Section 5, as amended) is amended to read:

9 "61-30-5. REAL ESTATE APPRAISERS BOARD CREATED. - -

10 A. There is created a "real estate appraisers board"
11 consisting of [~~nine~~] seven members.

12 B. There shall be [~~five~~] four real estate appraiser
13 members of the board who shall be licensed or certified.

14 Membership in a professional appraisal organization or
15 association shall not be a prerequisite to serve on the board.

16 [~~No real estate appraisal organization or association shall~~
17 ~~have a majority membership on the board.~~] No more than

18 [~~three~~] two real estate appraiser members shall be from any
19 one licensed or certified category.

20 C. [~~The initial real estate appraiser members shall~~
21 ~~be appointed by the governor for three year terms. At the~~
22 ~~expiration of these initial terms, the governor shall appoint~~
23 ~~or reappoint one or more of the real estate appraiser members~~
24 ~~for terms of five years.~~] Board members shall be appointed to
25 five-year staggered terms and shall serve until their

underscored material = new
[bracketed material] = delete

1 successors are appointed and qualified. Real estate appraiser
2 members may be appointed for no more than two five-year terms.

3 D. No more than two members shall be from any one
4 county within New Mexico, and at least one real estate
5 appraiser member shall be from each congressional district.

6 E. [~~Two members~~] One member of the board shall
7 represent lenders or their assignees engaged in the business
8 of lending funds secured by mortgages. Two members shall be
9 appointed to represent the public. The public members shall
10 not have been real estate appraisers or engaged in the
11 business of real estate appraisals or have any financial
12 interest, direct or indirect, in real estate appraisal or any
13 real-estate-related business. [~~The lender member and public~~
14 ~~members shall each be appointed for five-year terms.~~]

15 F. Vacancies on the board [~~for real estate appraiser~~
16 ~~members due to that member's failure to obtain certification~~
17 ~~or any other vacancy on the board for any other member~~] shall
18 be filled by appointment by the governor for the unexpired
19 term within sixty days of the vacancy. "

20 Section 5. Section 61-32-5 NMSA 1978 (being Laws 1993,
21 Chapter 204, Section 5) is amended to read:

22 "61-32-5. BOARD CREATED. --

23 A. There is created the "board of thanatopractice".

24 B. The board is administratively attached to the
25 department.

underscored material = new
[bracketed material] = delete

1 C. The board consists of [~~six~~] seven members. Three
2 members shall be funeral service practitioners who have been
3 licensed in the state for at least five years; [~~two~~] three
4 members shall represent the public and shall not have been
5 licensed for the practice of funeral service or direct
6 disposition in this state or any other jurisdiction and shall
7 not ever have had any financial interest, direct or indirect,
8 in any funeral, commercial or direct disposition establishment
9 or crematory; and one member shall be a licensed direct
10 disposer or health care practitioner who has been licensed in
11 the state for at least five years.

12 D. Members of the board shall be appointed by the
13 governor for staggered terms of four years [~~except that~~
14 ~~members of the board appointed and serving under prior law at~~
15 ~~the effective date of the Thanatopractice Act shall serve out~~
16 ~~the terms for which they were appointed as members of the~~
17 ~~board created by this section~~]. Each member shall hold office
18 until his successor is duly qualified and appointed.
19 Vacancies shall be filled for any unexpired term in the same
20 manner as original appointments.

21 E. Members of the board shall be reimbursed as
22 provided in the Per Diem and Mileage Act and shall receive no
23 other compensation, perquisite or allowance.

24 F. A simple majority of the board members
25 [~~currently~~] serving constitutes a quorum.

underscored material = new
[bracketed material] = delete

1 G. The board shall hold at least two regular
2 meetings each year and shall meet at such other times as it
3 deems necessary.

4 H. No board member shall serve more than two full
5 consecutive terms, and any member failing to attend, after
6 proper notice, three meetings shall automatically be
7 recommended for removal as a board member unless excused for
8 reasons set forth in board [regulations] rules.

9 I. The board shall elect a chairman and other
10 officers as deemed necessary to administer its duties. "

11 Section 6. Section 69-25A-4 NMSA 1978 (being Laws 1979,
12 Chapter 291, Section 4, as amended) is amended to read:

13 "69-25A-4. COAL SURFACE MINING COMMISSION-- DUTIES. --

14 A. The "coal surface mining commission" is created.
15 The commission shall consist of:

- 16 (1) the director of the bureau of mines and
17 mineral resources or his designee;
- 18 (2) the director of the department of game and
19 fish or his designee;
- 20 (3) the secretary of environment or his
21 designee;
- 22 (4) the chairman of the soil and water
23 conservation commission or his designee;

24 [~~(5) the director of the agricultural~~
25 ~~experiment station of New Mexico state university or his~~

underscored material = new
[bracketed material] = delete

1 ~~designee;~~

2 ~~(6)]~~ (5) the state engineer or his designee;

3 ~~[(7)]~~ (6) the commissioner of public lands or
4 his designee; and

5 ~~[(8)—two]~~ (7) three public members who shall
6 be appointed by the governor with the advice and consent of
7 the senate. The public members shall have, by education,
8 training or experience, expertise related to mining or mine
9 reclamation.

10 B. The commission shall elect a chairman and other
11 necessary officers and keep records of its proceedings.

12 C. The commission shall convene upon the call of the
13 chairman or a majority of its members.

14 D. A majority of the commission is a quorum for the
15 transaction of business. However, no action of the commission
16 is valid unless concurred in by at least three of the members
17 present.

18 E. The commission shall perform those duties as
19 specified in the Surface Mining Act relating to the
20 promulgation of ~~[regulations]~~ rules and as specified in
21 Section 69-25A-29 NMSA 1978 relating to appeals from the
22 decisions of the director.

23 F. No member of the commission who performs a
24 function or duty under the Surface Mining Act may have a
25 direct or indirect financial interest in any activity

. 124859. 4

1 undertaken by the commission.

2 G. The public members shall receive per diem and
3 mileage pursuant to the Per Diem and Mileage Act. "

4 Section 7. EFFECTIVE DATE. --The effective date of the
5 provisions of Sections 1, 2 and 4 through 6 of this act is
6 July 1, 1999. The effective date of the provisions of Section
7 3 of this act is June 20, 1999.

8 - 11 -

9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

underscored material = new
[bracketed material] = delete

1 FORTY-FOURTH LEGISLATURE

2 FIRST SESSION, 1999

3
4
5 February 11, 1999

6
7 Mr. President:

8
9 Your RULES COMMITTEE, to whom has been referred

10
11 SENATE BILL 402

12
13 has had it under consideration and reports same with
14 recommendation that it DO PASS, and thence referred to the
15 FINANCE COMMITTEE.

16
17
18 Respectfully submitted,

19
20
21
22
23
24
25

Gloria Howes, Co-Chair

. 124859. 4

underscored material = new
[bracketed material] = delete

underscored material = new
[bracketed material] = delete

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

Adopted _____ Not

Adopted _____

(Chief Clerk)

(Chief Clerk)

Date _____

The roll call vote was 5 For 2 Against

Yes: 5

No: Adair, Kysar

Excused: Gorham

Absent: None

S0402RU1

1 FORTY-FOURTH LEGISLATURE

2 FIRST SESSION, 1999

SB 402/a

3
4
5
6 February 18, 1999

7
8 Mr. President:

9
10 Your FINANCE COMMITTEE, to whom has been referred

11
12 SENATE BILL 402

13
14 has had it under consideration and reports same with
15 recommendation that it DO PASS, amended as follows:

16
17
18 1. On page 2, lines 13 and 14, strike "at least thirty
19 years of age,".

20
21 2. On page 2, line 19, after "than" insert "three nor less
22 than".

23
24 3. On page 3, line 10, strike the first and second
25 occurrences of "chairman" and insert in lieu thereof "chair"

. 124859. 4

underscored material = new
[bracketed material] = delete

FORTY- FOURTH LEGI SLATURE
FIRST SESSI ON, 1999

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

SFC/SB 402

Page 15

both times and on line 11, after "secretary" insert "-
treasurer".

Respectfully submitted,

Ben D. Altami rano, Chair man

Adopted _____ Not

Adopted _____

(Chi ef Clerk)

(Chi ef Clerk)

Date _____

underscored material = new
[bracketed material] = delete

FORTY- FOURTH LEGISLATURE
FIRST SESSION, 1999

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

SFC/SB 402

Page 16

The roll call vote was 11 For 0 Against

Yes: 11

No: 0

Excused: Griego, Ingle

Absent: None

S0402FC1

. 127281. 1

. 124859. 4

underscored material = new
[bracketed material] = delete

1 FORTY-FOURTH LEGISLATURE
2 FIRST SESSION, 1999
3
4
5

6 March 16, 1999
7

8 Mr. Speaker:
9

10 Your BUSINESS AND INDUSTRY COMMITTEE, to whom has
11 been referred
12

13 SENATE BILL 402, as amended
14

15 has had it under consideration and reports same with
16 recommendation that it DO PASS.

17 Respectfully submitted,
18

19
20
21 _____
22 Fred Luna, Chairman
23
24
25

FORTY-FOURTH LEGISLATURE
FIRST SESSION, 1999

3 HBIC/SB 402a

Page 18

4 Adopted _____ Not Adopted _____

5 (Chief Clerk)

(Chief Clerk)

7 Date _____

9 The roll call vote was 12 For 0 Against

10 Yes: 12

11 Excused: None

12 Absent: None

14 J:\99BillsWP\s0402

underscored material = new
[bracketed material] = delete

1 FORTY- FOURTH LEGISLATURE
2 FIRST SESSION, 1999

3
4 March 16, 1999

5
6
7 Mr. Speaker:

8
9 Your BUSINESS AND INDUSTRY COMMITTEE, to whom has
10 been referred

11 SENATE BILL 402, as amended

12
13 has had it under consideration and reports same with
14 recommendation that it DO PASS.

15
16 Respectfully submitted,

17
18
19
20 _____
21 Fred Luna, Chairman
22
23
24
25

FORTY-FOURTH LEGISLATURE
FIRST SESSION, 1999

3 HBIC/SB 402a

Page 20

4 Adopted _____ Not Adopted _____
5 (Chief Clerk) (Chief Clerk)

7 Date _____

9 The roll call vote was 12 For 0 Against

10 Yes: 12

11 Excused: None

12 Absent: None

14 J:\99BillsWP\s0402

underscored material = new
[bracketed material] = delete